

IN RE: PETITION FOR VARIANCE
W/S York Road, 185' N of the c/l of
Padonia Road
(9712 York Road)
8th Election District
3rd Councilmanic District

James D. O'Connor, Legal Owner;
Texas Brand Corp., t/a
Padonia Auto Service, Contr. Lessee

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 99-306-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, James D. O'Connor, and the Contract Lessee, Texas Brand Corporation, t/a Padonia Auto Service, by Constance M. Brehm, through their attorney, C. William Clark, Esquire. The Petitioners seek relief from Section 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side property line setback of 7 feet in lieu of the required 30 feet for a proposed expansion. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the public hearing in support of the request were Raymond E. Brehm, who operates Padonia Auto Service, Thomas A. Church, Professional Engineer who prepared the site plan for this property, and C. William Clark, Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

An examination of the site plan reveals that the subject property consists of a gross area of 0.568 acres, more or less, zoned B.R., and is located adjacent to the intersection of York Road and Old Padonia Road in Timonium. The property is improved with a service garage which has existed on the site for many years. The area at large is commercial/retail in character and similar automotive uses exist nearby. The immediately adjacent property is improved with a building owned by the Chesapeake and Potomac (C&P) Telephone Company of Maryland.

ORDER RECEIVED FOR FILING

Date

By

This property was the subject of prior Case No. 88-485-X in which a special exception for the existing automotive service garage use was granted. The site plan offered in that case was subsequently amended and further relief was sought in Case No. 90-213-SPHXA. In addition to the amendment of the site plan, relief was approved in that case to permit motor vehicle sales on the subject property, pursuant to Section 236.4 of the Baltimore County Zoning Regulations (B.C.Z.R.). Moreover, certain variances from side yard setback requirements and the minimum distance requirements between buildings were also granted. Lastly, variance relief was requested to permit the display of vehicles closer to the property line and street right-of-way than permitted.

An examination of the site plan submitted in the instant case shows that the property has been developed on a piece-meal basis over the years. Presently, there is a one-story service garage/office building. Additionally, a second, one-story building containing three (3) service bays is located on the site. A third structure, identified on the site plan as an office trailer, is also located on the property. In addition to these structures, much of the property is paved with macadam surface to provide storage and parking areas.

The Petitioners now come before me seeking approval to construct an "L" shaped addition to the existing service garage/office building. Additional service bays will be provided as will an expanded office space. As shown on the site plan, the new office space will replace an existing storage shed. Testimony indicated that the Petitioners' automotive service garage business has increased over the years and the proposed expansion is necessary to accommodate their growing customer base. Further testimony indicated that the sale of used cars on the premises ceased some time ago and as such, the special hearing and variance relief granted in the prior case is no longer necessary. As shown on the site plan, the proposed improvements will result in a side yard setback of 7 feet from the property line shared in common with the C&P Telephone Company property. Thus, variance relief is necessary to permit the proposed construction.

At the hearing Mr. Church indicated that further variance relief may be necessary from the building to building distance requirements. Although presently those requirements were variances and are undersized pursuant to the previously approved site plan and Order in Case No.

90-213-SPHXA, additional relief is required for the proposed improvements. As shown on the site plan, part of the addition containing the office space will be located 7 feet from the other freestanding service garage building. The B.C.Z.R. require that each building maintain its own side yard setback (i.e. 30 feet); thus variance relief from building to building distance requirements is also necessary.

There were no Protestants present and no adverse Zoning Advisory Committee comments. The Office of Planning indicated in their comment that they had no objection to the relief requested, for so long as the building materials, screening/landscaping, and signage complies with the guidelines set forth in the Hunt Valley/Timonium Master Plan. I agree that further development should be consistent with that Master Plan, while recognizing as-built conditions on the site. For this reason, I will grant the Petition for Variance, as modified at the hearing, to reduce setbacks not only to the side property line but also the distance between buildings. Moreover, I will require the Petitioners submit building elevation drawings of the proposed construction to the Office of Planning for review and approval prior to the issuance of any building permits.

Pursuant to the advertisement, posting of the property, and public hearing held thereon, and for the reasons set forth herein, the Petition for Variance, as modified, shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of June, 1999 that the Petition for Variance seeking relief from Section 238.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side property line setback of 7 feet in lieu of the required 30 feet, and a distance between buildings of 7 feet in lieu of the required 60 feet, for a proposed addition, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Prior to the issuance of any building permits, the Petitioners shall submit

ORDER RECEIVED FOR FILING

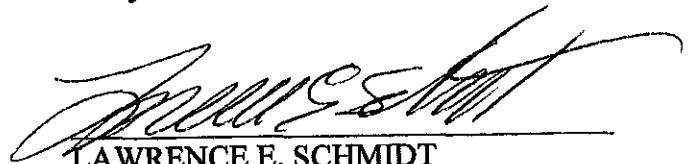
Date 6/25/99

By [Signature]

building elevation drawings of the proposed building for review and approval by the Office of Planning. The design of the building and materials utilized shall be consistent with the approved drawing.

- 3) When applying for a building permit, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that inasmuch as the sale of used cars no longer takes place on the subject site, the special hearing and variance relief granted in prior Case No. 90-213-SPHXA to accommodate the accessory used car sales operation is hereby null and void.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 6/25/99
By [Signature]



Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

June 25, 1999

C. William Clark, Esquire
Nolan, Plunhoff & Williams
502 Washington Avenue, Suite 700
Towson, Maryland 21204

RE: PETITION FOR VARIANCE
W/S York Road, 185' N of the c/l Padonia Road
(9712 York Road)
8th Election District – 3rd Councilmanic District
James D. O'Connor, Owner; Texas Brand Corp./Padonia Auto Serv., Lessee - Petitioners
Case No. 99-306-A

Dear Mr. Clark:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance, as modified, has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. James D. O'Connor
100 West Road, Suite 215, Towson, Md. 21204
Ms. Constance M. Brehm,
Padonia Auto Service, 9712 York Road, Cockeysville, Md. 21030
People's Counsel; Case File

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper

Date: REV 9/15/98
By: 3

DEVELOPMENT ENGINEERING CONSULTANTS, INC.

Site Engineers & Surveyors

6603 York Road
Baltimore, Maryland 21212
(410) 377-2600
(410) 377-2625 Fax

306

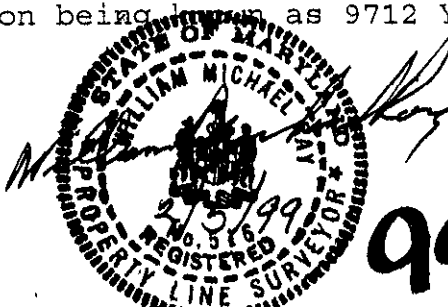
ZONING DESCRIPTION

9712 YORK ROAD

Beginning on the west side of York Road, 80 feet wide, at a distance of 185 feet north of the centerline of Old Padonia Road, thence running 1) By a curve to the right having a radius of 53,397.90 feet, an arc length of 78.23 feet and a chord bearing South 18 degrees 18 minutes 53 seconds East, 78.23 feet, 2) By a curve to the right having a radius of 541.00 feet, an arc length of 48.28 feet and a chord bearing South 15 degrees 48 minutes 01 seconds East, 48.26 feet, 3) By a curve to the right having a radius of 25.00 feet, an arc length of 47.53 feet and a chord bearing South 41 degrees 12 minutes 58 seconds West, 40.69 feet, 4) North 84 degrees 19 minutes 16 seconds West, 65.69 feet, 5) South 05 degrees 32 minutes 09 seconds West, 10.00 feet, 6) North 84 degrees 19 minutes 16 seconds West, 124.19 feet, 7) North 09 degrees 49 minutes 44 seconds West, 78.34 feet and 8) North 71 degrees 15 minutes 13 seconds East, 203.15 feet to the point of beginning.

Containing 24,742 square feet or 0.568 acres of land, more less.

The improvements thereon being known as 9712 York Road.



99-306-A

**NOTICE OF ZONING
HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #99-308-A
9712 York Road
NWQ York and Old Padonia Roads
8th Election District
3rd Councilmanic District
Legal Owner(s):
James D. O'Connor
Contract Purchaser:
Texas Brand Corporation, Va
Padonia Auto Service

Variance: to allow a 7-foot setback from side property line in lieu of the required 30 feet.

Hearing: Tuesday, March 30, 1999 at 11:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4388.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

3/154 March 11 - Q296488

CERTIFICATE OF PUBLICATION

TOWSON, MD., 3/11/, 1999

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 3/11/, 1999

THE JEFFERSONIAN,

J. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

Item 306
No. 063727

DATE 2-9-99 ACCOUNT R-001-6150
AMOUNT \$ 250.00

RECEIVED FROM: Development Engineering Consultants

FOR: Commercial Variance Filing Fee

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PROCESS	ACTUAL	TIME
2/09/1999	2/09/1999	09:45:27
RE: 4801 CASHIER CLERK CML DRAWER		
5 MISCELLANEOUS CASH RECEIPT		
Receipt # 088951		OFLN
CH NO. 063727		

250.00 CHECK
Baltimore County, Maryland

99-306-A

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: CASE # 99-306-A
PETITIONER/DEVELOPER:
(Texas Brand Corp.)
DATE OF Hearing
(Mar. 30, 1999)

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Ave.
Towson, Maryland 21204

ATTENTION : MS. GWENDOLYN STEPHENS

LADIES AND GENTLEMEN:

This letter is to certify under the penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property located at
9712 York Road Baltimore, Maryland 21093_____

The sign(s) were posted on_____ 3-14-99 _____
(Month, Day, Year)

Sincerely,

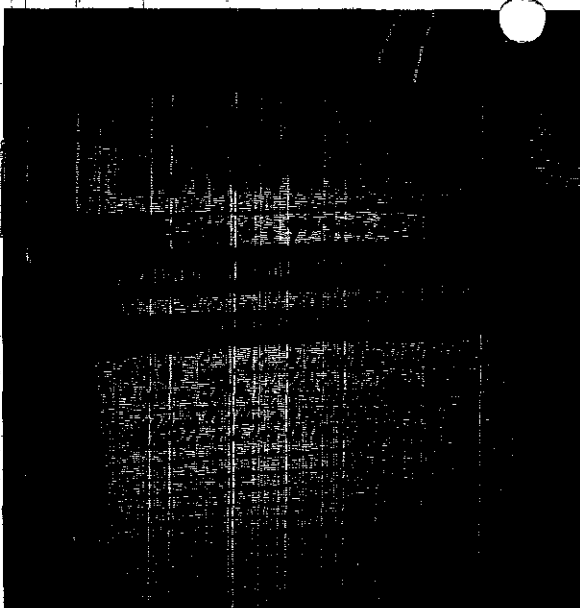

(Signature of Sign Poster & Date)

_____ Thomas P. Ogle, Sr. _____

_____ 325 Nicholson Road _____

_____ Baltimore, Maryland 21221 _____

_____ (410)-687-8405 _____
(Telephone Number)



**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 99-306-A
Petitioner: James D. O'Connor
Address or Location: 9712 York Rd.

PLEASE FORWARD ADVERTISING BILL TO:

Name: Tom Church, P.E.
Address: 16603 York Rd.
Balto., Md., 21212
Telephone Number: (410) 377-2600

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____.

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: 99-306-A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: _____

DATE AND TIME: _____

REQUEST: A Variance to allow a side yard setback of
7 ft. in lieu of the minimum required 30 ft.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

TO: PATUXENT PUBLISHING COMPANY
March 11, 1999 Issue – Jeffersonian

Please forward billing to:

Tom Church, P.E.

410-377-2600

6603 York Road

Baltimore, MD 21212

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-306-A

9712 York Road

NWC York and Old Padonia Roads

8th Election District – 3rd Councilmanic District

Legal Owner: James D. O'Connor

Contract Purchaser: Texas Brand Corporation, T/A Padonia Auto Service

Variance to allow a 7-foot setback from side property line in lieu of the required 30 feet.

HEARING: Tuesday, March 30, 1999 at 11:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue


LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

February 22, 1999

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-306-A
9712 York Road
NWC York and Old Padonia Roads
8th Election District – 3rd Councilmanic District
Legal Owner: James D. O'Connor
Contract Purchaser: Texas Brand Corporation, T/A Padonia Auto Service

Variance to allow a 7-foot setback from side property line in lieu of the required 30 feet.

HEARING: Tuesday, March 30, 1999 at 11:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

c: C. William Clark, Esquire
James D. O'Connor
Texas Brand Corporation
Development Engineering Consultants, Inc.

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MARCH 15, 1999.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

March 25, 1999

C. William Clark, Esq.
Nolan, Plumhoff & Williams
502 Washington Avenue, Suite 700
Towson, MD 21204

RE: Case No.: 99-306-A
Petitioner: Padonia Auto Service
Location: 9712 York Road

Dear Mr. Clark:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on .

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." followed by a stylized flourish.

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

c: Thomas A. Church, Dev. Eng. Consultants, 6603 York Rd, Balto. 21212

WCR:ggs



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: March 19, 1999

FROM: *RWB* Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
for February 29, 1999
Item Nos. 305, 306, 307, 308, 309,
310, 312, and 313

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comment.

RWB:HJO:jrb

cc: File

ZONE0229.NOC

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: March 3, 1999

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: 9712 York Road

INFORMATION:

Item Number: 306

Petitioner: Texas Brand Corporation

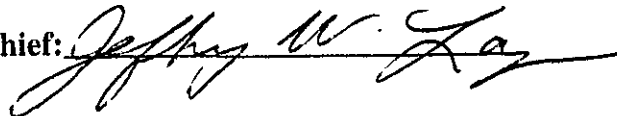
Zoning: BR

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

This office has no objection to this request provided all other components of the development, including building materials, screening/landscaping and signage comply with the guidelines set forth in the Hunt Valley/Timonium Master Plan, adopted by County Council, November 1998. Building elevations shall be submitted to the Office of Planning for review and approval prior to the issuance of permits.

Section Chief:



AFK/JL:



**Baltimore County
Fire Department**

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

March 11, 1999

David Eblon, Director
Public Administration and Development Department
Baltimore County Office Building
Towson, MD 21204
CALL STOP-1125

Property Owner: JAMES D.O'CONNOR

Location: DISTRIBUTION MEETING OF February 22, 1999

Item No.: 306

Meeting Agenda:

Comments:

Pursuant to your request, the referenced property has been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

WATER TO REAR OF PROPERTY MUST HAVE 18' FIRE LANE.

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office, PHONE 897-4331, MC-1102F

cc: File

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits and Development Management

DATE: -----

FROM: R. Bruce Seeley, Project Manager
Development Coordination
DEPRM

SUBJECT: Zoning Advisory Committee

Distribution Meeting Date: 2/22/99

The Department of Environmental Protection and Resource Management has
no comments for the following Zoning Advisory Committee Items:

Item #'s:

305
306
308
310
311
312
313



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 1.19.99

Ms. Gwen Stephens
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

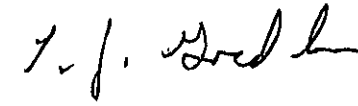
RE: Baltimore County
Item No. 366 JJS

Dear. Ms Stephens:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,


Michael M. Lenhart, Acting Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

file
3/30

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: March 3, 1999

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: 9712 York Road

INFORMATION:

Item Number: 306

Petitioner: Texas Brand Corporation

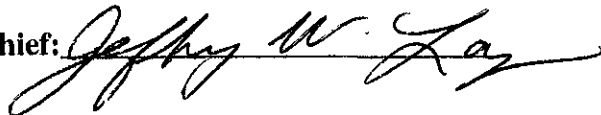
Zoning: BR

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

This office has no objection to this request provided all other components of the development, including building materials, screening/landscaping and signage comply with the guidelines set forth in the Hunt Valley/Timonium Master Plan, adopted by County Council, November 1998. Building elevations shall be submitted to the Office of Planning for review and approval prior to the issuance of permits.

Section Chief:



AFK/JL:

RE: PETITION FOR VARIANCE
9712 York Road, NWC York Road & Old Padonia
Rd, 8th Election District, 3rd Councilmanic

Legal Owners: James D. O'Connor
Contract Purchaser: Texas Brand Corp.,
t/a Padonia Auto Service

Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case Number: 99-306-A

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates of other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of February, 1999, a copy of the foregoing Entry of Appearance was mailed to C. William Clark, Esq., Nolan, Plumhoff & Williams, 502 Washington Avenue, Suite 700, Towson, MD 21204, attorney for Petitioner(s).

Peter Max Zimmerman
PETER MAX ZIMMERMAN

IN RE:	PETITIONS FOR SPECIAL HEARING,	* BEFORE THE
	SPECIAL EXCEPTION & VARIANCES -	
	W/S of York Road, 185' N of the	* DEPUTY ZONING COMMISSIONER
	c/l of Old Padonia Road	
	(9712 York Road)	* OF BALTIMORE COUNTY
	8th Election District	
	3rd Councilmanic District	* Case No. 90-213-SPHXA
	John D. O'Connor, et al	*
	Petitioners	

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve an amendment to the previously approved site plan in Case No. 88-485-X; a special exception to approve the use of the subject property as a used motor vehicle sales lot pursuant to Section 236.4 of the Baltimore County Zoning Regulations (B.C.Z.R.); and variances to permit a side yard setback of 6 feet in lieu of the required 30 feet, and a minimum distance between buildings of 6 feet in lieu of the required 60 feet, and the storage and display of used vehicles 1 foot from the front property line in lieu of the required 15 feet and 1 foot from the street right-of-way in lieu of the required 10 feet, for proposed used car sales, as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by James D. O'Connor, appeared and testified on behalf of himself and the co-owners of the subject property. Also appearing on behalf of the Petition were Raymond E. and Connie Brehm, Lessees of the subject property, and Bernard Linsenmeyer, Registered Property Line Surveyor. There were no Protestants.

Testimony indicated that the subject property, known as 9712 York Road, consists of 0.568 acres zoned B.R.-C.C.C. and is improved with two service garage buildings and storage sheds. Said property was granted a special exception for use as gasoline service stations in 1955 in Case No.

3504-5. Thereafter, on June 14, 1988 in Case No. 88-458-X, Petitioners were granted a special exception to use the property for service garage uses only and to discontinue the sale of gasoline. Subsequently, the property was rezoned from B.L.-C.C.C. to B.R.-C.C.C. in the 1988 comprehensive map process whereby its service garage use became a permitted use as a matter of right. Petitioners are now requesting permission to sell used cars from the premises in addition to the service garage use.

Testimony indicated that Raymond Brehm, who has been in the service garage business for a number of years, would like to expand his present operation on the subject property to include used car sales by adding a sales office, approximately 12' x 24' as depicted in Petitioner's Exhibit 1, and display used cars on the site. Petitioners testified that in their opinion, the requirements of Section 502.1 of the B.C.Z.R. will be met.

The Office of Planning had no objections to the special exception or special hearing, but had concerns with the proposed layout. In response to their comments dated November 30, 1989, Mr. Brehm testified that the Office of Planning's proposed location for the sales office was unacceptable due to the need of the sales office to be visible from York Road and Old Padonia Road. Planning was opposed to the location of the sales office building and request for it to be a separate building. The Office of Planning also suggested that a minimum landscape area of 10 feet be required between the front property line and the street right-of-way. Planning further agreed with the State Highway Administration comments of August 31, 1989 that the entrance closest to the southernmost portion of York Road should be closed. Petitioners indicated their willingness to comply with closing the entrance.

Subsequent to the hearing, Petitioners filed a revised site plan, marked Exhibit A, which shows the front setbacks for the neighboring properties as required. The revised site plan indicates the display of used vehicles will be 7 feet from the front property line instead of the originally requested 1 foot to permit planting. However, the required setback for the display of vehicles is 20.5 feet based on the information provided on the plat and not 15 feet, pursuant to Section 238.4 of the B.C.Z.R. Since the actual required variance is not greater than that requested in the Petition, the variance will be considered.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the relief requested in the special hearing were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel.

It is clear that the B.C.Z.R. permits the use proposed in a B.R.-C.C.C. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any ad-

verse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted, as hereinafter modified, with certain restrictions as more fully described below.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the requested variances are granted, as hereinafter modified, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial

detriment to the public health, safety, and general welfare. The modifications to Petitioners' request are required to prevent an overcrowding of the subject property. In the opinion of the Deputy Zoning Commissioner, the additional landscaping suggested by the Office of Planning and relocation of the building are appropriate in this instance.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing, special exception and variances, as modified, should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of July, 1990 that the Petition for Special Hearing to approve an amendment to the previously approved site plan in Case No. 88-485-X to include a use car sales office and related parking spaces and the Petition for Special Exception to approve the use of the subject property for used motor vehicle sales pursuant to Section 236.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and are hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit a side yard setback of 10 feet in lieu of the required 30 feet and a variance to permit the storage and display of used vehicles to be located 7 feet from the front property line in lieu of the required 20.5 feet and 7 feet from the street right-of-way in lieu of the required 10 feet, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is

reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

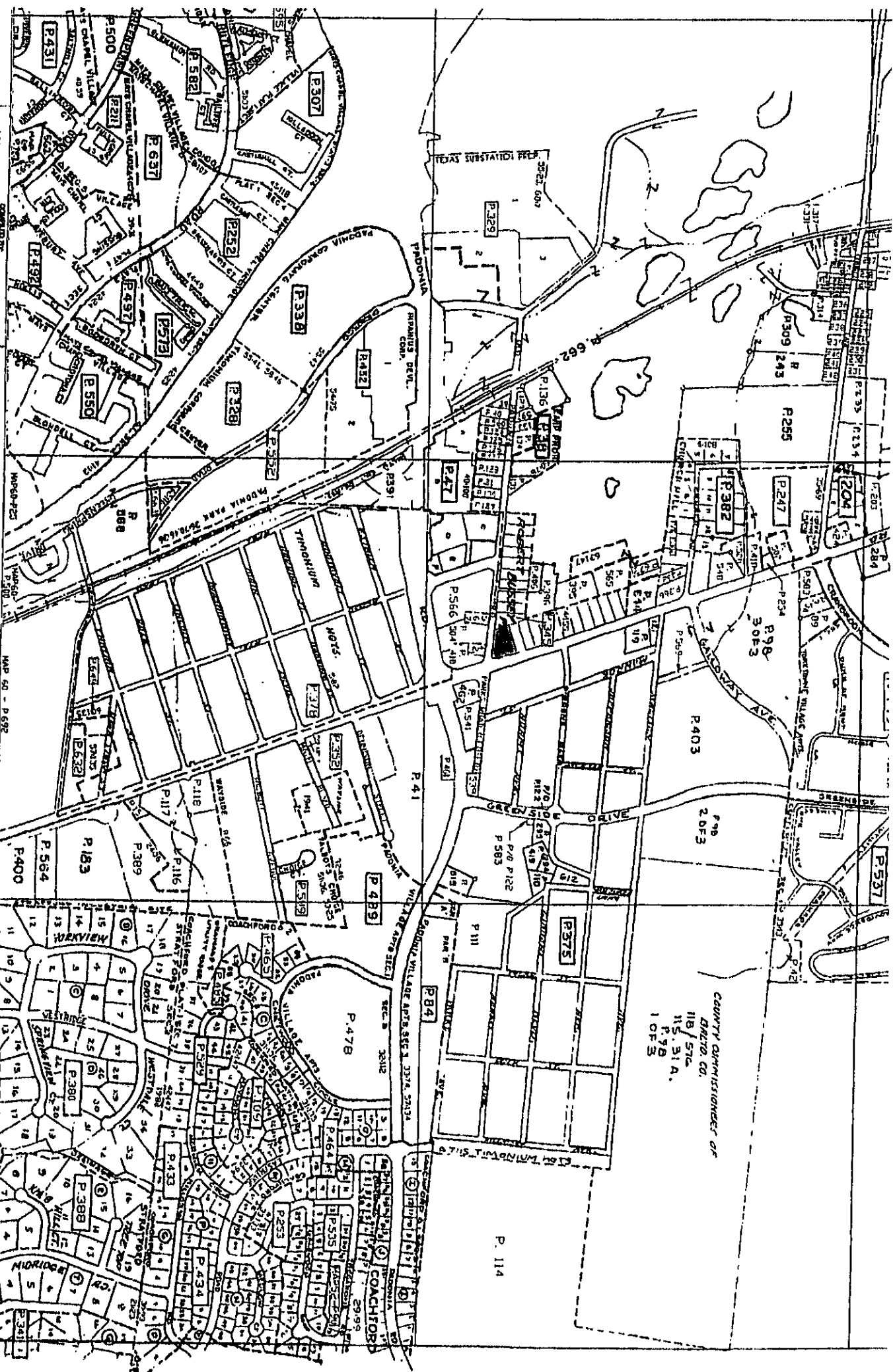
- 2) All damaged or disabled vehicles must be stored inside in accordance with Section 405.A of the B.C.Z.R.
- 3) Prior to the issuance of any permits, Petitioner shall submit a landscape plan for approval by the Baltimore County Landscape Planner and the Deputy Director of Planning. A copy of the approved landscaping plan shall be submitted to the Zoning Commissioner's Office for inclusion in the case file prior to the issuance of any permits. The landscaping required within the street right-of-way must be maintained at all times by the property owners at their expense.
- 4) Petitioners shall provide a minimum landscape area of 7 feet wide along York Road as depicted in Petitioner's Exhibit 2. The landscaping for said area shall be as determined by the Baltimore County Landscape Planner and Deputy Director of Planning.
- 5) The side yard variance of 10 feet in lieu of the required 30 feet is for the proposed used car office sales building, which shall be moved to the north side of the building in the location of the proposed used car display parking spaces, identified as spaces 15 and 16 on Petitioner's Exhibit 1. Said building shall be attached to the existing building.
- 6) There shall be no more than sixteen (16) used cars displayed for sale at any one time.
- 7) Petitioners shall be limited to the placement of only one storage shed on the subject property.
- 8) Prior to the issuance of any permits, a revised site plan and landscaping plan must be filed which references this case and sets forth and addresses the restrictions of this Order. Said plans must be reviewed and found to be in conformance with the requirements of this Order.

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit a minimum distance between buildings of 6 feet in lieu of the required 60 feet be and is hereby DENIED.

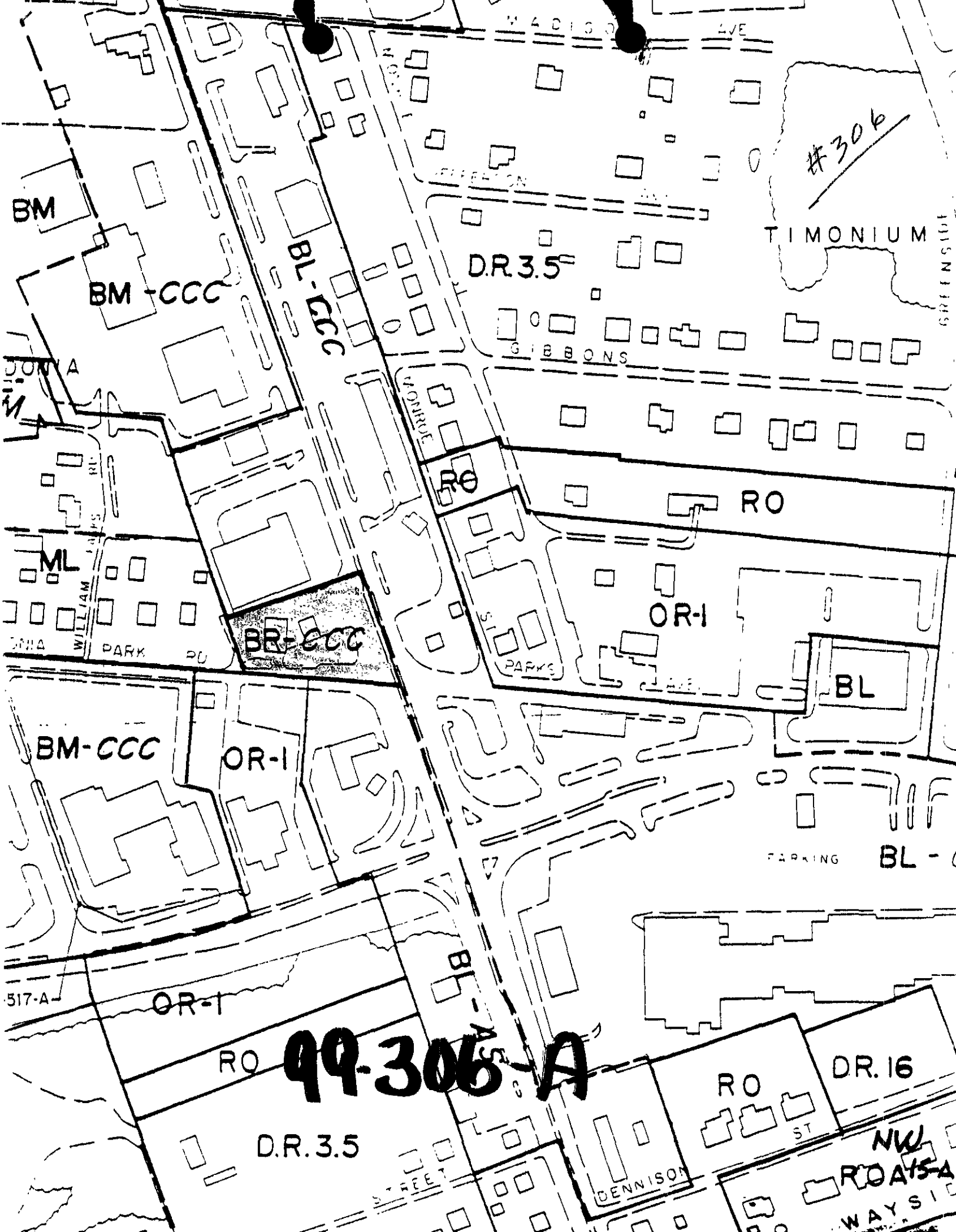
AMN:bjs

(L-MA 1/10/11)

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County







#306

99-306-A

NW ROAD 15-A

WAYSIDE

TIMONIUM

GREENSIDE

DR.3.5

RO

OR-I

BL

BL - C

OR-I

BM-CCC

BR-CCC

RO

BM-CCC

BL-CCC

BM

GIBBONS

JEFFERSON

ST

PARKS

PARK

WILLIAM

ML

DOVA

BM

WILLIAM

PARK

RD

517-A

517-A

517-A

517-A

517-A

517-A

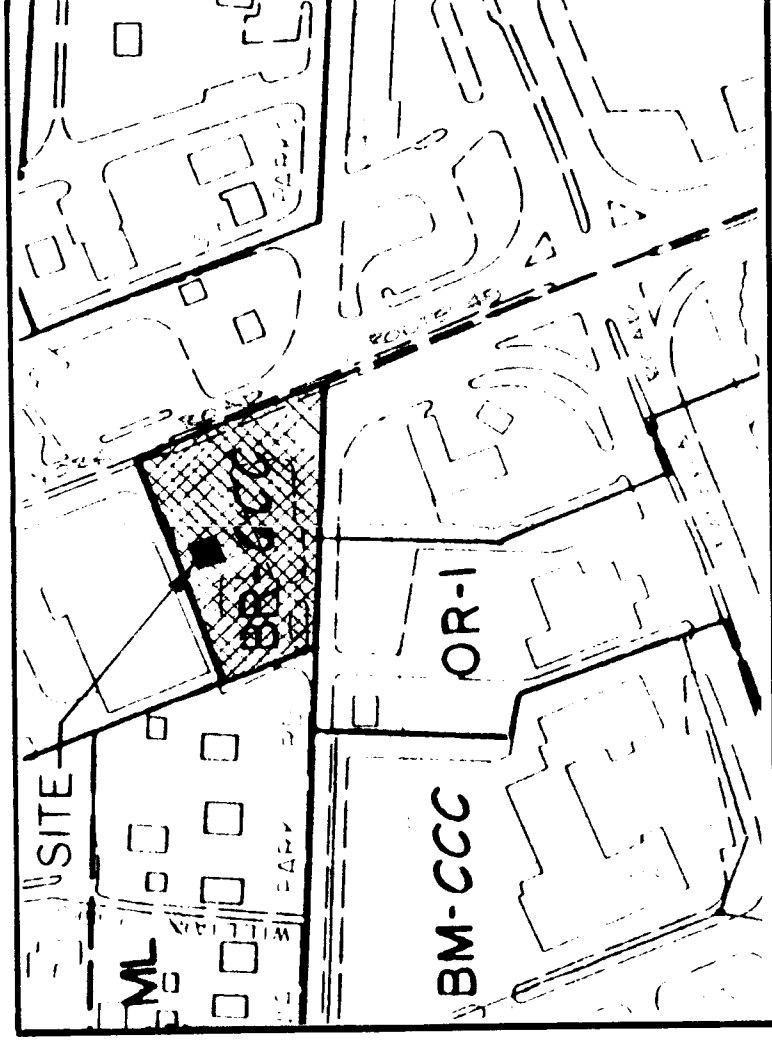
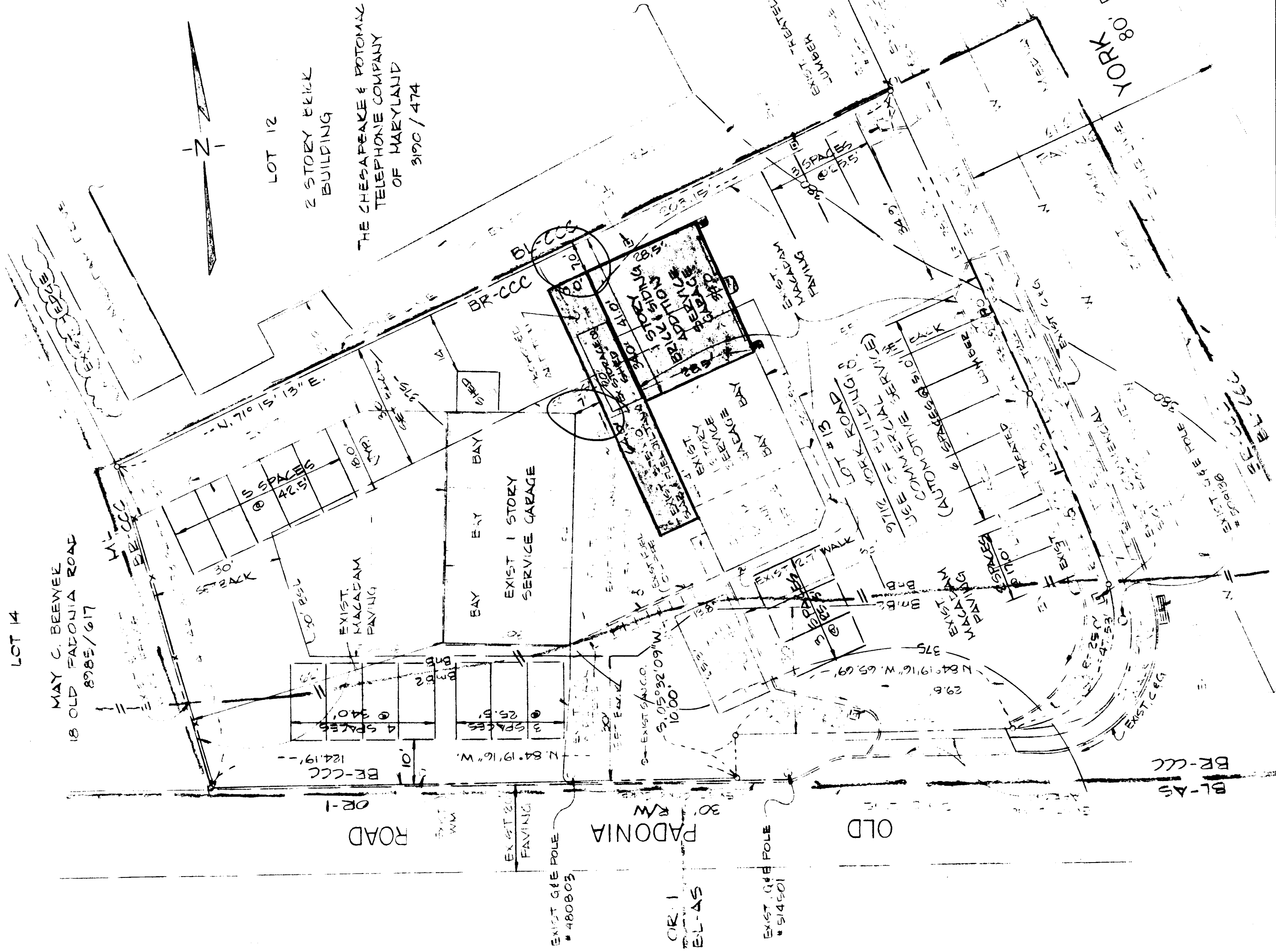
517-A

517-A

517-A

517-A

PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL EXCEPTION



DETAIL SHOWING ZONING AND BUILDINGS ON ADJACENT SITES

SCALE: 1" = 200'

BUILDING AREA TABULATION	
EXISTING	16,474 SF
OFFICE & REST ROOMS	7,980 SF
SERVICE BAYS (2)	16,000 SF
STORAGE AREA	100,000 SF
SHED	100,000 SF
SERVICE BAYS (3)	16,200 SF
OFFICE TRAILER	349,156 SF
3. TOTAL	349,156 SF
PROPOSED	34,000 SF
SERVICE BAYS (2)	64,000 SF
PARKING TABULATION	TOTAL 510,156 SF
PROPOSED REQUIRED PARKING	3.3 AC
3.3 AC	3.3 AC
1000 SF	1000 SF
TOTAL PROPOSED REQUIRED PARKING	17 AC
TOTAL PROVIDED PARKING SPACES	360 PS

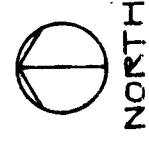
60 YEAR FLOOD PLAIN DOES NOT EXIST ON THIS SITE AS PER (F.I.R.M. # 240010-0235B)

PREVIOUS COMMERCIAL PERMITS (LISTED BY PERMIT AND CONTROL NUMBER) ADDRESS PERMIT CONTROL NUMBER DATE
9712 YORK RD. NO PRIOR LISTING OF PERMITS IN THE BALTIMORE COUNTY PERMIT DEPT ARCHIVES.



DEVELOPMENT ENGINEERS AND SURVEYORS, INC.
SITE ENGINEERS & SURVEYORS
6603 YORK ROAD 410-377-2600 BALTIMORE, MARYLAND 21212

Drafting	JTC	DATE
Check		
Design		
Check		



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT: 8TH

COUNCILMANIC DISTRICT: 3RD

1" = 200' SCALE MAP #: NW 15A

ZONING: BR-CCC

LOT SIZE:

9712 YORK ROAD 24,742.08 SQ FT = 0.56 AC

PUBLIC PRIVATE

SEWER: ☒

WATER: ☒

YES NO

CHESAPEAKE BAY CRITICAL AREA: ☐

PRIOR ZONING HEARINGS:

CASE NUMBERS 3504 88-485-N ALL 90-213-SFH-X

ZONING OFFICE USE ONLY

REVIEWED BY

ITEM #

CASE #

PROPERTY INFORMATION

JAMES D. O'CONNOR ETAL

9712 YORK ROAD

7905/646

08-07-015600

PLAT TO ACCOMPANY PETITION FOR VARIANCE

9712 YORK ROAD

8TH ELECTION DISTRICT

BALTIMORE COUNTY, MD.

SHEET

OF

DATE

SCALE

CONTRACT NUMBER